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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,612 -	01/30/2004	Peter Gotz	031211-084	5643
21839	7590	11/01/2006	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			TOTH, KAREN E	
			ART UNIT	PAPER NUMBER
			3735	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,612

Applicant(s)

GOTZ ET AL.

Examiner

Karen E. Toth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-4,6,7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7 and 9-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

2. Claims 3 and 7 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 102

3. Claims 1-4, 6-7, 15-16, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Lia'765 (US Patent Application Publication 2003/0114765).

Regarding claims 1, 3, and 7, Lia discloses a blood pressure measuring apparatus comprising a pneumatic assembly (element 20) that is used for generation of pressure (paragraph [0024]) and an attached gage (element 30A). Said pneumatic assembly includes a depressible bulb (element 21) that is used to manually generate pressure by squeezing (paragraph [0030]) and a bleed valve (element 27; paragraph [0027]). The gage comprises a dial face with measurement indicia (paragraph [0020]). The apparatus may be connected to a sleeve (element 38) via a connector end (element 65A). The measuring cell and operating unit are connected to each other via a

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removable connecting element (port 105, 106, which receives a hose 19; paragraphs [0025], [0030]); the measuring cell and operating unit may be connected to each other in at least two predetermined positions with respect to each other, since the hose and port may be connected in a plurality of rotational positions.

The examiner notes that the current rejection is drawn to the embodiment disclosed in figure 4 of Lia'765. The previous rejection of this application using Lia'765 was drawn the embodiment disclosed in figure 3.

Regarding claim 2, Lia'765 further discloses that a holder end is provided and allocated for the measuring cell (left side of element 19, figure 4), and that the measuring cell may be detachably connected to the holder end.

Regarding claim 4, Lia'765 further discloses that the measuring cell and operating unit may be connected to each other in two positions rotated 180° with respect to each other, since the port (elements 105, 106) and hose (element 19) may be connected in a plurality of rotational positions, including those rotated 180° with respect to each other.

Regarding claim 6, Lia'765 further discloses that the measuring cell and the operating unit may be connected to each other by a plugging connection, by the hose (element 19) onto the barb (elements 105, 106) (paragraph [0030]).

Regarding claim 15, Lia'765 further discloses that the measuring gage (element 30A) is removably held within a socket (element 34; paragraph [0029]), and may therefore be exchanged for alternate measuring gages that also fit within the provided socket. Additionally, the measuring gage is connected to the operating unit by a port;

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the hose (element 19) used to attach the operating unit may be attached to an alternate measuring gage having a similar port.

Regarding claim 16, Lia'765 further discloses that the operating unit (element 20) comprises a valve with a release screw (element 27).

Regarding claim 18, Lia'765 further discloses that the pressure generated by the pneumatic assembly (element 20) is generated by squeezing a depressible bulb (element 21; paragraph [0030]). The bulb is connected to the pneumatic assembly by a hose (element 19) that is slidably attached to a barb (element 106) on a receiving port (element 105) of the main socket (figure 4).

Regarding claim 19, Lia'765 discloses a hand-operated blood pressure measuring apparatus comprising a measuring cell having a pressure display for measuring a pressure progression (element 30A); a hand-operated operating unit having a pressure generating and regulating device (elements 20, 21, 27, etc.), wherein the measuring cell and operating unit are detachably connected to each other (elements 19, 105, 106); where the measuring cell and the operating unit can be connected to each other in at least two predetermined positions with respect to each other (since port 105/106 and hose 19 may be connected to each other in any number of predetermined positions), and where a guiding means is provided for guiding at least one of the measuring cell and the operating unit into the at least two predetermined positions (tube 105 guides hose 19 into its final position).

The examiner notes that applicant has disclosed "guiding means", which may be an attempt to invoke means-plus-function. However, according to MPEP 2181, "...a

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claim element that does not include the phrase “means for” or “step for” will not be considered to invoke 35 U.S.C. 112, sixth paragraph. If an applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant must either: (A) amend the claim to include the phrase “means for” or “step for” in accordance with these guidelines; or (B) show that even though the phrase “means for” or “step for” is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112, sixth paragraph. See *Watts v. XL Systems, Inc.*, 232 F.3d 877, 56 USPQ2d 1836 (Fed. Cir. 2000)”

Claim Rejections - 35 USC § 103

4. Claims 11-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lia'765.

Regarding claim 11, Lia'765 discloses all the elements of the current invention, as applied to claims 1, 3, 4, 7, 15, and 18 above, except for the identifying means for individualizing. The examiner takes official notice that it is well known in the medical field to identify or personalize a medical item. Doctors often identify their equipment to prevent misuse by others. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have identified or personalized the apparatus of Lia'765 in order to prevent misuse by others.

Regarding claim 12, Lia'765 discloses all the elements of the current invention, as described above, except for attaching the identifying means to a removable

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connecting element or bolting element that is used to connect the measuring cell and operating unit. The applicant has not stated that the location of the identifying means is for a particular purpose, or that it solves a stated problem. As such, the exact attachment location of the identification means would have been a mere matter of design choice for one skilled in the art.

Regarding claim 13, Lia'765 discloses all the elements of the current invention, as described above, except for the connecting or bolting element being at least partially formed transparent. The examiner takes official notice that it is well known in the medical field to provide means for the identification of medical items, such as forming components at least partially of transparent material to allow identifying means to be securely contained underneath. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have partially formed the connecting or bolting element of the apparatus of Lia'765 of transparent material in order to allow identification means to be attached to the apparatus.

Regarding claim 14, Lia'765 discloses all the elements of the current invention, as described above, except for providing means on the connecting or bolting element for connecting to both the measuring cell and the operating unit. Lia'765 further discloses that the port element (element 105, 106) that is used to join the operating cell (element 20) and the measuring gage (element 30A) further includes a barb (element 106) for joining the operating unit and the measuring cell (figure 4).

Regarding claim 17, Lia'765 discloses all the elements of the current invention, as described above, except for using a spring bow clamping connection to hold the

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bleed valve screw in place. The applicant has not stated that the choice of a spring bow is for a particular purpose, or that it solves a stated problem. As such, the exact clamping mechanism would have been a mere matter of design choice for one skilled in the art.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lia'765 in view of Riester'287.

Regarding claim 9, Lia'765 discloses all the elements of the current invention, as described above, except for providing an elastic element between the measuring cell and the operating unit.

Riester'287 teaches a hand-operated blood pressure measuring device comprising a measuring cell (element 1) that is detachably connected to an operating unit, which includes a rubber bulb pump for generating pressure and a discharge valve for regulating pressure (column 4, lines 7-14 – see figure 1), and may be attached to a blood pressure sleeve via a connector end (element 14). A valve washer (element 2), fabricated from an elastic (rubber) material (column 4, lines 56-59) is located between the pressure gauge (element 1) and the remainder of the operating unit (figure 1), in order to seal the connection and prevent leaks. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the apparatus of Lia'765 and included an elastic element between the operating unit and measuring cell, as taught by Riester'287, in order to seal the connection and prevent leaks.

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Regarding claim 10, Lia'765 in view of Riester'287 discloses all the elements of the current invention, as described above, except for the elastic element being arranged pressed between the measuring cell and the operating unit when the two are connected.

Riester'287 further teaches that the valve washer is positioned between the pressure gauge (element 1) and the air outlet bushing (element 4) of the operating unit; the outlet bushing is screwed into place and thereby compresses the valve washer (column 4, lines 62-65), in order to tightly seal the connection. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the apparatus of Lia'765 in view of Riester'287 and arranged the elastic element so it is pressed between the operating unit and measuring cell, as taught by Riester'287, in order to tightly seal the connection.

Allowable Subject Matter

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to anticipate or make obvious the structure of claim 20, including, *inter-alia*, bolting a blood pressure measuring apparatus's measuring cell and operating unit to each other.

Lia'765 discloses a blood pressure measuring apparatus with a measuring cell and operating unit that may be removably connected, but does not disclose the parts being bolted to each other.

Response to Arguments

7. Applicant's arguments with respect to claims 1-4, 6-7, and 9-18 have been considered but are moot in view of the new ground(s) of rejection.

Though the previous rejection was also based upon Lia'765, the rejection was drawn to the embodiment disclosed in figure 3. The present rejection is drawn to the embodiment disclosed in Lia's figure 4.

Conclusion

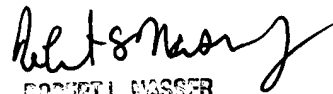
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen E. Toth whose telephone number is 571-272-6824. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ROBERT L. NASSAR
PATENT EXAMINER